

**REMARKS**

The telephone interview with examiner Reginald Alexander on 13 December 2006 is acknowledged with appreciation. No agreement was reached. The examiner indicated that Steiner et al. (U.S. Patent No. 3,345,934) discloses preheating of the reservoir. Undersigned attorney for applicants disagreed for the reasons explained below.

Claims 1, 16 and 17 have been amended for added clarity.

Claims 1-19 stand rejected as anticipated by Steiner et al. The final office action at page 2 states that with respect to Steiner et al. “[i]t is the Examiners position, based upon statements within the specification (col. 2, lines 65-70), that the server is pre-heated before the beverage is dispensed.” As discussed during the interview, the examiner interprets the language at column 2, lines 65-70 of Steiner et al. “[t]he electric resistance heater and the thermostatic control element 43 cooperate to maintain the envelope 40 of heated air in the chamber 28 at a temperature less than the temperature of the coffee entering the container 21 . . . .” to mean that Steiner et al.’s liner 22 is preheated.

Applicants’ urge that Steiner et al. does not disclose preheating of the liner 22. Steiner et al. discloses heating envelope 40 of air in chamber 28 “so that the air envelope 40 within the chamber 28 absorbs only a minimum of heat from the coffee.” Steiner et al. discloses at column 2, beginning at line 1 that coffee is brewed at about 212<sup>0</sup> F and delivered to a heat confining container 21 having a stainless steel inner liner 22, insulation 24 and an outer stainless steel shell 23. “[t]he coffee brewing apparatus may be periodically actuated manually, or may be induced into operation by a sensing device so that additional coffee is brewed when the supply of coffee in the container 21 is running low” (column 3, lines 43-46). Steiner et al. adds hot (210<sup>0</sup> F) coffee to the container and maintains the temperature around the container when there is coffee in the container “so that the air envelope 40 within the chamber 28 absorbs only a minimum of heat from the coffee.” Thus, Steiner et al. teach how to keep coffee in the reservoir from losing heat to the exterior of the reservoir. Steiner et al. is concerned with the insulation and heat loss from the container to the outside and is, in effect, changing the temperature outside the reservoir so as to minimize the loss of heat from coffee in the reservoir. Steiner et al. does not discuss how the process is started. That is, at the beginning of the day when one first starts up the coffee server and brews coffee, is the chamber 28 heated before or after introduction of the coffee into the interior stainless steel liner 22? Even assuming (and such is not conceded) that heating of the

chamber 28 begins prior to introduction of coffee into inner liner 22, it is not evident that preheating of the inner liner would or could occur. Can the heating of the chamber penetrate the exterior liner 23 and insulation 24 and cause preheating of the inner liner 22? The burden is on the examiner to show that such is the case<sup>1</sup> and such has not been shown. Applicants assert there is no disclosure in Steiner et al. of preheating the reservoir 22 before dispensing beverage to the reservoir 22 as recited in applicants' claims.

Applicants' claim 1 is directed to a server including means for preheating the reservoir before depositing beverage into the reservoir. For the reasons noted above Steiner et al. does not disclose such means. Dependent claims 2-5 recite additional limitations not disclosed by Steiner et al.

Applicants' claim 6 requires the step of "preheating the reservoir before dispensing beverage to the reservoir"; claim 7 requires the step of "activating the heater for transferring energy to the reservoir to heat the reservoir before dispensing beverage to the reservoir to prevent a decrease in the temperature of beverage dispensed into the reservoir"; claim 15 requires the step of "preheating the reservoir before dispensing beverage to the reservoir"; claim 18 requires the step of "preheating the reservoir before dispensing beverage to the reservoir" and claim 19 requires "dispensing beverage from the brewer into the reservoir of the preheated server...." Steiner et al. does not disclose any of the above quoted limitations in these claims.

Applicants' claim 16 is directed to a server including a controller for controlling operation of the server heater; whereby the server heater is operated before dispensing beverage to the server reservoir for preheating the server reservoir before dispensing of beverage therein. For the reasons noted above Steiner et al. does not disclose such controller.

Applicants' claim 17 is directed to a server including a controller programmed for preheating the server reservoir before depositing beverage therein. For the reasons noted above Steiner et al. does not disclose such controller.

New dependent claim 20 is added.

In view of the above, it is submitted that all of the claims (Nos. 1-20) are in condition for allowance and such action is, respectfully, requested.

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<sup>1</sup> See *In re Rijckaert*, 9 F.3d 1531, 1534, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993) and *In re Oelrich*, 666 F.2d 578, 581-582, 212 USPQ 323, 326 (CCPA 1981).

If there is any issue remaining to be resolved, the examiner is invited to telephone the undersigned so that resolution can be promptly effected.

It is requested that, if necessary to effect a timely response, this paper be considered as a Petition for an Extension of Time sufficient to effect a timely response with the fee for such extensions and shortages in other fees, being charged, or any overpayment in fees being credited, to the Account of Barnes & Thornburg, Deposit Account No. 10-0435 (27726-93386).

Respectfully submitted,

BARNES & THORNBURG LLP

A handwritten signature in cursive script, reading "Richard B. Lazarus".

Richard B. Lazarus

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